UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BLOCK MINING, INC., Plaintiff, v. HOSTING SOURCE, LLC, Defendant.	CASE NO. C24-0319JLR ORDER

I. INTRODUCTION

Before the court is Plaintiff Block Mining, Inc.'s ("Block Mining") motion pursuant to Federal Rule of Civil Procedure 64 and RCW 4.44.480 seeking to compel Defendant Hosting Source, LLC ("Hosting Source") to disclose and deposit certain assets into the court's registry. (Mot. (Dkt. # 67) at 1, 2; Reply (Dkt. # 70).) Hosting Source opposes Block Mining's motion. (Resp. (Dkt. # 69).) The court has reviewed the

parties' submissions, the relevant portions of the record, and the applicable law. Being fully advised,[1] the court DENIES Block Mining's motion.

II. BACKGROUND[2]

This case arises out of Hosting Source's alleged breach of the parties' December 29, 2021 Colocation Mining Services Agreement (the "Agreement"), under which Hosting Source agreed to house and operate Block Mining's bitcoin mining rigs ("Rigs") at Hosting Source's mining facility located in East Wenatchee, Washington. (Compl. (Dkt. # 1) ¶ 26; *see* Marchiori Decl. (Dkt. # 5) ¶ 20, Ex. A (the "Agreement").) Under the Agreement, Hosting Source was to install and supply power to Block Mining's Rigs to permit them to mine Bitcoin. (Compl. ¶¶ 26-28; *see* Agreement.) The Agreement also provided Block Mining with certain physical and remote VPN access rights so it could monitor and inspect its Rigs. (Compl. ¶¶ 30-32; *see also* Agreement, Ex. A §§ 2.5, 2.7.) In exchange, Hosting Source earned a portion of the Bitcoin rewards generated by Block Mining's Rigs at its mining facility. (Compl. ¶¶ 34-35; *see also* Agreement, Ex. A § 6.)

After receiving notice that Block Mining defaulted on its loan obligation with respect to its Rigs, Hosting Source reduced the power supplied to the Rigs. (Compl. ¶ 39.) After Block Mining cured the delinquency, however, Hosting Source continued to operate the Rigs on "lower power mode" thereby impeding the amount of Bitcoin that

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[1] The parties request oral argument. (*See* Mot. at 1; Resp. at 1.) The court concludes that oral argument would not aid in its disposition of the motions. See Local Rules W.D. Wash. LCR 7(b)(4).

[2] The court described the factual and procedural background of this case in detail in its June 14, 2024 order and does not repeat that background here except as is relevant to this order. (*See* 6/14/24 Order (Dkt. # 48) at 2-8.)

could be mined each day. (*Id.* ¶¶ 46-51.) Block Mining alleges that Hosting Source never restored its Rigs to full power; rather, Hosting Source terminated the Agreement, shut down Block Mining's Rigs, and removed Block Mining's VPN access, thereby preventing Block Mining from monitoring its Rigs. (*Id.* ¶¶ 60-62, 69-71.)[3] Block Mining further alleges that Hosting Source demanded that Block Mining pay it $278,242.41 in claimed fees, but that Block Mining refused to pay, denying that it owed any fees to Hosting Source. (¶¶ 69-71.) Hosting Source asserts a counterclaim in connection with "Block Mining's fail[ure] to timely pay all monies due and owing to Hosting Source" and seeks damages in connection with Block Mining's actions. (Answer (Dkt. # 27) ¶¶ 1.8, 1.10.)

In the instant motion, Block Mining seeks an order compelling Hosting Source to disclose and deposit into the court's registry "all assets derived from Block Mining's Rigs during the time Hosting Source [allegedly] improperly retained the Rigs, plus all interest Hosting Source has earned on such assets" (hereinafter, the "Assets"). (Mot. at 2.) Block Mining also seeks to recover costs and fees incurred in bringing the instant motion. (*Id.*) Hosting Source has agreed to deposit into the court's registry $156,111.88—which it characterizes as "undisputed funds"—but refuses to deposit the "full amount requested by Block Mining." (Resp. at 2.) The parties' briefing is complete and this matter is ripe for review.

[3] Block Mining retrieved the last of its rigs in June 2024. (Berman Decl. (Dkt. # 68) ¶ 5.)

III. ANALYSIS[4]

Block Mining's instant motion to compel is premised on Rule 64(a) and RCW 4.44.480. (Mot. at 1.) Rule 64(a) provides, in pertinent part, that "throughout an action, every remedy is available that, under the law of the state where the court is located, provides for seizing . . . property to secure satisfaction of the potential judgment." Fed. R. Civ. P. 64(a). Washington law, in turn, provides that:

> When it is admitted by the pleading or examination of a party, that the party possesses or has control of any money, or other thing capable of delivery, which being the subject of the litigation, is held by him or her as trustee for another party, or which belongs or is due to another party, the court may order the same to be deposited in court, or delivered to such party, with or without security, subject to the further direction of the court.

RCW 4.44.480.

Block Mining argues that an order compelling Hosting Source to disclose and deposit the Assets into the court's registry is appropriate because: (1) Hosting Source falsely represented that it was holding Block Mining's Bitcoin "in trust"; and (2) Block Mining is "uncertain and concerned about the status of" the Assets given Hosting

[4] As a preliminary matter, Hosting Source objects that the exhibits "submitted with [Block Mining's] motion lack authentication" under Washington Rule of Evidence Rule 901. (Resp. at 4 (capitalization omitted).) The court summarily denies this objection on two bases. First, the Federal Rules of Evidence apply to the instant action. *See Wray v. Gregory*, 61 F.3d 1414, 1417 (9th Cir. 1995) ("the Federal Rules of Evidence ordinarily govern in diversity cases"). Second, Federal Rule of Evidence 901(a) provides: "[t]o satisfy the requirement of authenticating . . . evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is." Authentication may be established by testimony "of a witness with knowledge" "that a matter is what it is claimed to be." *Id.* at 901(b)(1). The exhibits submitted with Block Mining's motion consist of various email communications between Block Mining's counsel, Eli Berman, and Hosting Source's counsel, and Hosting Source's discovery responses, all of which Mr. Berman testifies were sent or received by him and are authentic. (*See* Berman Decl. (Dkt. # 68) ¶¶ 3-11, Exs. A-F); Reply at 6.)

Source's alleged "deception" regarding the Assets. (Mot. at 4; Reply at 5 ("[Hosting Source's] deception is even more reason to grant relief").)[5] The court examines each of these arguments below.

A. Hosting Source's Representations

Block Mining contends that RCW 4.44.480 is satisfied here because Hosting Source "falsely" represented that it was holding the Assets "in trust" for Block Mining. (Mot. at 6; *id.* at 3-4.) In support, Block Mining points to a March 2, 2024 letter, before this action was initiated, in which Hosting Source's counsel represented that it would "hold funds in trust pending the resolution" of the parties' dispute regarding the $278,242.41 in claimed fees that Hosting Source asserted Block Mining owed. (Mot. at 3 (citing Marchiori Decl. ¶ 60, Ex. J).) Block Mining also points to Hosting Source's motion to dismiss, in which Hosting Source stated that it was holding various property "in trust" at Hosting Source's colocation facility. (*See* MTD (Dkt. # 25) at 6-7 (stating that the "return of any property held in trust on Hosting Source's colocation site must comply with contract terms so that Hosting Source is not damaged"); 7 (stating that the "computers" are held "in trust"); *id.* at 10, 11.)

In a May 2024 email message, Block Mining's counsel requested information about the "trust" referenced in the March 2024 email and Hosting Source's motion to

[5] Block Mining asserts that there are "additional factors prompting [it] to bring this motion" at this time but "omits from [its] motion a detailed discussion of its understanding of the current status of the[] [A]ssets" because Hosting Source's counsel invoked Federal Rule of Evidence 408 when providing this information to Block Mining. (Mot. at 2 n.1; *see id.* at 4; Reply at 2.)

dismiss. (Mot. at 3-4.) In response, Hosting Source's counsel stated that it did not "inten[d] . . . to suggest a formal trust as defined by Washington statute[;]" rather, it "aimed to highlight the physical possession and custody of the servers at Hosting Source's facility and the management and holding of the products of the mining activities." (Berman Decl. (Dkt. # 68) ¶ 4, Ex. B.) In that same email, Hosting Source stated that it was "managing the Bitcoin in a manner consistent with . . . the [parties'] [A]greement." (*Id.*) In its response to Block Mining's discovery requests, Hosting Source stated that it used the phrase "in trust" "colloquially" to "describe Hosting Source's efforts to manage and safeguard the [p]arties' property for accurate accounting and subsequent *pro rata* distribution, as outlined in the [] Agreement." (Berman Decl. ¶ 6, Ex. C at 4.) In same discovery response, Hosting Source also said that it "redirect[ed] [the] mining activities" to a digital destination, and provided the link, account name, and password. (*Id.*) Block Mining understands that Hosting Source controls the destination where the Assets were redirected. (Mot. at 3 (citing Berman Decl., Ex. C).)

In its response brief, Hosting Source disputes that it holds the Assets as trustee for Block Mining within the meaning of RCW 4.44.480. (*See* Resp. at 1-2.) It further argues that the parties' Agreement does not create a trust or impose any custodial duties on Hosting Source. (*See id.* at 2-3.)

Having reviewed the parties' briefs and supporting materials, the court cannot conclude that Hosting Source is holding the Assets in trust for Block Mining. Block Mining's argument heavily depends on Hosting Source's use of the term "trust" in the

March 2024 email message and motion to dismiss. But Hosting Source's use of the term "trust" is "not conclusive proof of intent to create a trust." *See In re Foam Sys. Co.*, 893 F.2d 1338, at *3 (9th Cir. Jan. 12, 1990); *see Koken v. First Hawaiian Bank*, 230 F.3d 1367, at *2 (9th Cir. Sept. 5, 2000) (collecting authorities). Rather, "the operative factor is the intent of the parties." *Koken*, 230 F.3d at *2; *see also Cedar River Water & Sewer Dist. v. King Cnty.*, 315 P.3d 1065, 1073 (Wash. 2013) ("[T]he 'key element' is whether the parties intended a trust relationship rather than a contractual relationship." (citation omitted)). Furthermore, "[u]nder modern law, holding funds for a purpose does not, by itself, establish a trust or fiduciary relationship." *Cedar*, 315 P.3d at 1073.

On the facts as described, the court finds no basis to impose a trust relationship in this case. The Agreement itself does not establish a trust relationship or mention the term "trust." And beyond Hosting Source's use of the word "trust" in correspondence and later legal filings, Block Mining does not provide any evidence that the parties intended to create a trust relationship. Moreover, Block Mining has not provided—and the court is not aware of—any case law imposing a trust under the circumstances described in the parties' briefing. Accordingly, the court declines to find that Hosting Source is holding the Assets as trustee for Block Mining.

B. Hosting Source's Alleged "Deception" Regarding the Assets

Block Mining further argues that the court should compel Hosting Source to deposit the Assets into the court's registry because its "deception about holding mining proceeds 'in trust' raises substantial concerns that the [A]ssets . . . are at significant risk of dissipation, misapplication or diversion." (Mot. at 2; *see id.* at 4 (stating that Block

Mining "continues to be uncertain and concerned about the status of the [A]ssets in question").) In support, Block Mining relies on *Engelhart v. Hansen*, an unpublished Washington Court of Appeals opinion affirming the trial court's decision to sequester funds owed to the defendant in part because the trial court found the defendant acted "evasive[ly]" in providing financial information during trial. (*See* Mot. at 6-7 (citing *Engelhart v. Hansen*, 33 Wash. App. 2d 1064, at *2, *10 (Wash. Ct. App. 2025) (unpublished)); *see* Reply at 2 (stating that *Engelhart* "affirmed relief under RCW 4.44.480 based on a finding of 'financial evasiveness'").)

As a threshold matter, unpublished opinions of the Washington Court of Appeals have no precedential value. *See* Wash. Gen. R. 14.1(a). Setting that aside, *Engelhart* demonstrates that RCW 4.44.480 applies in narrow circumstances distinguishable from the case at bar. In that case, the parties did not dispute that the defendant was entitled to the funds that were sequestered in the court's registry before they were deposited; indeed, the court entered the parties' agreement prior to trial. *See Engelhart*, 33 Wash. App. 2d at *2. In the instant case, however, the parties dispute the other's right to the Assets. (*See generally* Mot.; Resp.) Accordingly, the court is not persuaded by *Engelhart*.

There is a dearth of recent and published case law addressing RCW 4.44.480. The Washington Supreme Court's opinion in *Rainier National Bank v. McCracken*, 615 P.2d 469, 476 (1980), however, is instructive to the instant dispute. In interpreting RCW 4.44.480, the *Rainier* court[6] concluded that "[a] party who claims title or right to funds in

[6] In construing RCW 4.44.480, the Washington Supreme Court relied on a California statute that was "substantially the same" as RCW 4.44.480. *Rainier*, 615 P.2d at 476.

his or her possession cannot be compelled to pay such funds into the [court's] registry . . . in a summary manner." *Rainier*, 615 P.2d at 475-76. In that case, the trial court entered a pretrial order in favor of the respondent bank requiring the appellants—who were purchasers of a vendor's interest in a real estate contract—to deposit the proceeds obtained from the real estate contract into the court's registry. *Id.* at 476. The bank and the appellants disputed the other's right to the funds at the time the pretrial order was entered. *See id.* On appeal, the *Rainier* court concluded that the pretrial order was invalid, reasoning that "the [appellants] at all times claimed title and right to all of th[e] funds," and "that issue had not been judicially determined at the time" the pretrial order was entered. *Id.* at 477. Because Block Mining and Hosting Source, like the *Rainier* parties, dispute the other's right to the Assets in question, the court denies Block Mining's motion to compel. The court also denies Block Mining's request to recover costs and fees incurred in connection with this motion.

C. The Undisputed Assets

The parties do not appear to dispute that $156,111.88 should be deposited into the court's registry. (*See* Resp. at 2; Reply at 5-6.) Accordingly, the court concludes that it may properly compel Hosting Source to deposit $156,111.88, with interest accrued on that amount, into the court's registry. *Cf. Stewart v. Moss*, 192 P.2d 362, 368 (Wash. 1948) (affirming trial court's order requiring witness to pay funds into the court's registry when "[t]he witness had expressed willingness to do so and had disclaimed all interest in the fund[s]"). The court will not require Block Mining to post security. *See* RCW 4.44.480 ("[T]he court may order the [assets] to be deposited in court . . . with or without

security[.]"); *Yamaha Motor Corp., U. S. A. v. Harris*, 631 P.2d 423, 427 (1981) ("The setting of a bond is a matter solely within the discretion of the trial court." (citation omitted)).

IV. CONCLUSION

Based on the foregoing, the court DENIES Block Mining's motion to compel (Dkt. # 67). The court ORDERS Hosting Source to deposit $156,111.88, with accrued interest, into the court's registry in accordance with Local Civil Rule 67 by **July 29, 2025**. The Clerk is directed to deposit funds into the Registry of the Court in the principal amount of $156,111.88, plus accrued interest.

Dated this 25th day of July, 2025.

JAMES L. ROBART
United States District Judge